Supreme Court, U.S.
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No. 99-

IN THE

Supreme Court of the United States

MARCUS LAWSON,

Petitioner,

v.

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE STATE OF NEW YORK, COUNTY COURT, COUNTY OF ERIE

PETITION FOR A WRIT OF CERTIORARI

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THE QUESTIONS PRESENTED FOR REVIEW

1. Was the petitioner denied due process when the court, without prior notice or an opportunity to be heard or present evidence, ordered that the defendant's home be demolished as part of his sentence for various housing code violations?

2. Does the Buffalo City Housing Court Act violate due process insofar as it authorizes a court to "employ any remedy, program, procedure or sanction authorized by law for the enforcement of housing standards," "regardless of the relief originally sought by a party. . ."

A LIST OF ALL PARTIES TO THE PROCEEDING

Plaintiff/Respondent: City of Buffalo

Defendant/Petitioner: Marcus Lawson

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OPINIONS BELOW

The decision of the Erie County Court is unpublished and appears as Appendix A. The unpublished transcript of the proceedings before the City Court of Buffalo appears as Appendix B.

THE BASIS FOR JURISDICTION

Leave to Appeal to the New York Court of Appeals was denied on August 13, 1999. (Appendix C).

Jurisdiction herein is pursuant to 28 U.S.C. § 1257.

Since the constitutionality of a New York State statute is at issue in this petition, this petition has been served upon the Attorney General of the State of New York pursuant to 28 U.S.C. § 2403(b). No court below certified to the State Attorney General the fact that the constitutionality of a statute of that State was drawn into question.

THE CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

Amendment V, United States Constitution:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy

> of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment XIV, United States Constitution:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Buffalo City Housing Court, Chapter 516 of the Laws of New York, 1978 § 204. Relief permitted:

> Regardless of the relief sought originally by a party, the court may recommend or employ any remedy, program, procedure or sanction authorized by law for the enforcement of housing standards, if it believes they will be more effective to accomplish compliance or to protect and promote the public interest . . .

STATEMENT OF THE CASE

A. Procedural History

The petitioner was charged with nine counts involving housing code violations by an information dated February 15, 1995. He was arraigned in Buffalo City Court, County of Erie, State of New York, on March 31, 1995 and on that date was purported to have pled guilty to all charges. He was sentenced on December 18, 1995 to fifty-three days incarceration and a conditional discharge. Erie County Court Judge John V. Rogowski stayed sentence on December 21, 1995.

On September 5, 1997, Erie County Court Judge Sheila A. DiTullio reversed the conviction solely on the ground that the petitioner's plea of guilty was not properly taken.

On October 20, 1997, the petitioner appeared before City Court Judge Michael L. Broderick and pled guilty to all charges in the information.

On December 8, 1997, Judge Broderick ordered the immediate demolition of the petitioner's residence and conditionally discharged the petitioner on the condition that "he take every step necessary to ensure his leaving the premises before the demolition" and "cooperate with the City in resolving the problems of reimbursement for the cost." [Dec. 8, 1997, p. 6:25-7:7].

The petitioner filed a notice of appeal to the Erie County Court on January 6, 1998.

On April 16, 1998, Erie County Court Judge John V. Rogowski issued a stay of enforcement of the sentence on the condition that the appeal be perfected by April 30, 1998 and argued by May 20, 1998.

On April 16, 1999, Erie County Court Judge Sheila A. DiTullio, affirmed the judgment in all respects.

On May 13, 1999, the petitioner filed a request for permission to appeal to the New York Court of Appeals.

On August 13, 1999, Associate Judge of the Court of Appeals Richard C. Wesley denied the application.

STATEMENT OF FACTS

The information charges the petitioner, Marcus Lawson, with nine housing code violations involving 55 Lyth St., Buffalo, New York. The violations involved (1) roof and eaves, (2) gutters, (3) siding, (4) skirting, (5) paint, (6) foundation, (7) windows, (8) trash, and (9) grass. The petitioner pled guilty and was sentenced. Judge Broderick ordered the immediate demolition of the building. [Dec. 8, 1997, pp. 3:21-23; 6:25-7:7] He also granted the petitioner a conditional discharge on the condition that he cooperate with the demolition and pay for it. *Id.* Prior to sentence, it was made clear to Judge Broderick that the petitioner would not consent to demolition. [*Id.* at 2:8-23] No evidentiary hearing was held regarding the issue of the need for his residence to be demolished. The court apparently relied on reports from City inspectors and on certain photographs of the house, however, none of this "evidence" was submitted through sworn testimony of witnesses subject to cross-examination and none of the evidence was property authenticated. The

petitioner himself had no opportunity at any time to present evidence indicating that the house need not be demolished.

FEDERAL ISSUES PRESERVED FOR REVIEW

No federal constitutional issues were raised in the trial court. However, such issues were fully and fairly preserved for review by virtue of their having been raised in both New York State appellate courts. Point V of petitioner's brief in Erie County Court was "THE SENTENCE OF THE COURT VIOLATES DUE PROCESS." The argument section reads as follows:

> In addition to being unauthorized by statute, the court's order that the defendant's home be demolished was a blatant violation of due process. U. S. Constitution, Fifth and Fourteenth Amends.; *Catanzaro v. Weiden,* __ F3d __ (2nd Cir. March 20, 1998, Docket No. 97-7140); New York Constitution, Art. 1, Section 6; *51 St. Nicholas Realty v. City of New York,* 218 AD2d 343 (1st Dept. 1996). It is elementary that before one's home may be demolished, the owner must be given notice and an opportunity to be heard and to present evidence on his behalf. Here, because of the unorthodox nature of the sentence, no evidentiary hearing was held. The defendant was therefore deprived of an opportunity to challenge the evidence against him — non-existent since no hearing was held — and he was also deprived of an opportunity to present evidence indicating that the home did not need to be demolished.

> It should be obvious that all of the defects of the procedure used by the court below are traceable to the fact that a criminal proceeding is a clumsy means for determining which buildings should be demolished. Such determinations should and must be made in civil proceedings where all the elements of due process such as notice and an opportunity to be heard and present evidence can be respected. Such a conclusion is only reinforced by the fact that the record on appeal in this case makes it impossible for this Court to properly review on the merits City Court's order directing the demolition of the defendant's home.

This issue was fully litigated on the merits in Erie County Court. The City of Buffalo, in its answering brief cited the Buffalo City Housing Court Act, Chapter 516 of the Laws of New York, 1978, as authorization for the unusual sentence imposed by the petitioner. The petitioner thereupon filed a reply brief which alleged that the Act was an unconstitutional violation of due process. The brief cited the Fifth and Fourteenth Amendments of the United States Constitution and two federal cases, *United States v. Cross*, 128 F.3d 145 (3d Cir. 1997) and *Strickland v. Washington*, 466 U.S. 668 (1984). All such federal issues were also discussed on the merits at oral argument in Erie County Court. Judge DiTullio explicitly dealt with and rejected these contentions in her decision: "Neither was the sentence imposed unauthorized or a violation of due process." [Page 2] She explicitly stated that the Buffalo City Housing Court Act authorized the sentence.

In his request for permission to appeal, the petitioner again raised these federal questions before the New York Court of Appeals:

> The order . . . offends due process since it was made without notice, or an opportunity to be heard and to present evidence. Since no hearing was held, there is also insufficient evidence to justify demolition. See, U. S. Constitution, Fifth and Fourteenth Amends.; New York Constitution, Art 1, Section 6.
>
> The Buffalo City Housing Court . . . violates due process and the separation of powers, and turns judges into prosecutors. When a judge acts as a prosecutor, the impartiality of the tribunal is destroyed. See, U. S. Constitution, Fifth and Fourteenth Amends.; New York Constitution, Art 1, Section 6, and generally; *United States v. Cross,* 128 F3d 145 (3rd Cir. 1997).

Judge Wesley's decision does not explicitly address these issues, however, that is the case with all denials of leave to appeal from that court. At no time did the City of Buffalo ever suggest that these issues were not properly before the appellate courts.

REASONS FOR GRANTING THE WRIT

I. THE SENTENCE OF THE COURT VIOLATES DUE PROCESS.

Judge Broderick's order that the petitioner's home be demolished was a blatant violation of due process. U.S. Constitution, Fifth and Fourteenth Amendments; *Catanzaro v. Weiden,* 140 F.3d 91 (2nd Cir. 1998). It is elementary that before one's home may be demolished, the owner must be given notice and an opportunity to be heard

and to present evidence on his behalf. Here, because of the unorthodox nature of the sentence, no evidentiary hearing was held. The petitioner was therefore deprived of an opportunity to challenge the evidence against him — non-existent since no hearing was held — and he was also deprived of an opportunity to present evidence indicating that the home did not need to be demolished.

It should be obvious that all of the defects of the procedure used by the court below are traceable to the fact that a criminal proceeding is a clumsy means for determining which buildings should be demolished. Such determinations should and must be made in civil proceedings where all the elements of due process such as notice and an opportunity to be heard and present evidence can be respected. Such a conclusion is only reinforced by the fact that the record on appeal in this case makes it impossible for this Court to properly review on the merits City Court's order directing the demolition of the defendant's home.

II. THE BUFFALO CITY HOUSING COURT ACT IS UNCONSTITUTIONAL.

Section 204 of the Housing Court Act, which allows the court to "employ any remedy, program, procedure or sanction authorized by law for the enforcement of housing standards", "regardless of the relief originally sought by a party", violates due process and involves an improper delegation of executive power to the courts. U.S. Constitution, Fifth and Fourteenth Amendments.

Courts are and must be impartial adjudicators of disputes between litigants who urge conflicting positions for consideration. *United States v. Cross*, 128 F.3d 145 (3d Cir.

1997). Courts normally decide which of two conflicting positions is more in accord with the facts, the law and with justice. As stated by this Court, "a fair trial is one in which evidence subject to adversarial testing is presented to an impartial tribunal for resolution of *issues defined in advance of the proceeding*." *Strickland v. Washington,* 466 U. S. 668, 685 (1984) (emphasis added).

The Housing Court Act destroys this framework for justice. It allows a court to simultaneously suggest and adopt a remedy not sought by either party. This puts the defendant, (or even, perhaps, the prosecution), in the strange position of litigating *against the court.* The court becomes the plaintiff or prosecutor, while simultaneously remaining *the court,* while the defendant is deprived of an impartial tribunal in its dispute with the newly created plaintiff/prosecutor/court. Since the Act allows a court to "employ" various remedies *sua sponte,* the normal judicial process of carefully evaluating two opposing positions, "defined in advance", is eliminated. As the Court stated in *United States v. Cross, supra,* "due process cannot be satisfied when the state provides a 'hearing' at which the judge is not really listening or *before which the decision has already been made.*" *Id.* at n.2 (emphasis added).

III. THERE ARE COMPELLING REASONS WHY THIS COURT SHOULD ACCEPT THIS APPEAL.

This appeal involves important issues of due process, separation of powers, and the essential nature of courts. The Buffalo Housing Court was one of the first attempts to turn a court into a de facto administrative agency to deal with a specific social problem. There are now specialized "drug courts," and "domestic violence courts" springing up

throughout the country. The problem with these "courts" is that they are not really courts, but a combination of social service agency and administrative agency. They combine judicial and executive power.

The separation of those powers is critical to our framework of republican government. Consolidated government, which in this century we have called fascism, was the greatest fear of the drafters and ratifiers of the constitution. Specialized courts are favored by some precisely because they rid us of the "inconvenient" and "stodgy" procedures of due process. That is precisely why they are dangerous and need to be reigned in. The courts are not social service agencies; they have all they can handle in maintaining the rule of law and in peacefully and impartially adjudicating disputes between and among citizens.

CONCLUSION

For the reasons stated, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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APPENDIX

APPENDIX A — DECISION OF THE STATE OF NEW YORK, COUNTY COURT, COUNTY OF ERIE DATED APRIL 16, 1999

STATE OF NEW YORK
COUNTY COURT: COUNTY OF ERIE

98-APP-067

THE PEOPLE OF THE STATE OF NEW YORK

Respondent

VS.

MARCUS LAWSON,

Defendant-Appellant

* * *

MEMORANDUM AND ORDER

DiTULLIO, J.

This is an appeal from a judgment of conviction entered in the Buffalo City Court, Housing Part on December 8, 1997 [Broderick, J.], whereby the defendant was sentenced upon pleas of guilty to a conditional discharge, the conditions of which were that the defendant leave the subject premises prior to its demolition and cooperate with the City in resolving issues of reimbursement for the cost of said demolition.

Appendix A

The defendant now appeals upon several grounds, including that the sentence imposed was harsh and excessive, unauthorized, unlawful and a violation of due process.

The People have urged affirmance, contending that the sentence was neither harsh nor excessive, and was lawfully imposed. This Court agrees.

The record establishes that the defendant pleaded guilty to nine counts of violating the Ordinances and Code of the City of Buffalo relative to property located at 55-61 Lyth Street. The charges to which the defendant pleaded guilty were lodged in February, 1995, and alleged that with regard to the subject property, the roof and eaves were rotted, collapsed and deteriorated; the gutters were rotted; the siding loose and missing; the skirting open and deteriorated; the paint peeling; the front and rear walls deteriorated and collapsed; the windows broken and boarded, and that there was debris and junk in all yards, and overgrown grass in the front and on the left side of the building. The record also establishes that the defendant was afforded several opportunities by the court below to address these violations and bring the premises up to Code; however, he failed to take advantage of these opportunities and redress these conditions. On his convictions, the defendant faced a potential sentence of 135 days incarceration and/or an aggregate fine of $13,500. Under these circumstances, it cannot be said that the court below abused its discretion in imposing a conditional discharge, or that such sentence was harsh and excessive.

Neither was the sentence imposed unauthorized or a violation of due process.

Appendix A

The defendant's contention that demolition was ordered without his having had the opportunity to be heard or present evidence on his behalf is not borne out by the record. To the contrary, the record reflects that the defendant was afforded numerous opportunities to be heard on the matter. Indeed, there were not fewer than three separate proceedings: October 20, 1997; November 25, 1997 and December 8, 1997. On that last date, the defendant pleaded guilty to the violations, thus admitting to the allegations contained therein and thereby effectively waiving his right to present evidence contesting their accuracy. Faced then with admitted allegations establishing the grossly deteriorated condition of the property, which the court below concluded was "dangerous" and represented a "hazard to everybody," including the defendant, it was only reasonable for that court to order the property's immediate demolition and the defendant's cooperation with that effort. Chapter 516 of the Laws of New York 1978, § § 202,204 establish the Housing Part of the City Court of Buffalo, and endow that Part with broad discretionary powers relative to the relief it may impose for the enforcement of housing standards. Section 204 provides in pertinent part:

> Regardless of the relief originally sought by a party, the Court may . . . *employ any remedy, program, procedure of sanction* authorized by law for the enforcement of housing standards, if it believes they will be more effective *to accomplish or to protect and promote the public interest.* [emphasis added]

The court below was thus authorized to direct the demolition of the premises. In addition, Penal Law §65.05 authorizes

the imposition of a conditional discharge for an offense if the court, having regard to the nature and circumstances of the offense and to the history, character and condition of the defendant, is of the opinion that neither the public interest nor the ends of justice would be served by a sentence of imprisonment [see, Penal Law §65.05-1(a)]. The record here supports the determination of the court below that the defendant, who stood convicted of non-violent offenses in contravention of the Housing Code, was appropriately sentenced to a conditional discharge rather than a period of incarceration.

With regard to that condition directing the defendant to reimburse the City for demolition costs, this Court notes that while such costs are not appropriately deemed restitution or reparation (see, ***People v. Purcell***, 161 AD2d 812), such a condition is impliedly authorized by Penal Law Section 65.10-2(l) in that such direction would serve to aid the defendant's rehabilitation by preventing the incarceration of a defendant whom the sentencing court had determined was more appropriately sentenced to a conditional discharge and *not* to a term of imprisonment. It was not unreasonable for the sentencing court to conclude that in this instance, the defendant was best rehabilitated by a sentence the terms of which did not require his incarceration, but instead encouraged his rehabilitation. Indeed, such an end is recognized by an analogous provision in the law which provides that where a sentence of probation is imposed, the court is authorized to require that the defendant comply with any other reasonable condition as the court shall determine to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to prevent the incarceration

of the defendant [see, Penal Law §65.10(5)]. Here, having considered the purposes of sentencing: rehabilitation, safety of the public, punishment and deterrence, the court below determined that a sentence of incarceration was not the preferred sentencing option. Instead, that court concluded that a conditional discharge, a condition of which was that the defendant cooperate regarding the expenses for demolition, satisfied the established purposes of sentencing and served the ends of justice. Moreover, as the court noted in ***People v. Patino***, 174 Misc.2d 359, public policy considerations dictate that where an individual's course of conduct results in uncommon cost to a municipality, here the City of Buffalo, which would be made to bear the costs of demolition, a sentencing court should be deemed to have the authority to recoup these monies for the taxpayer's benefit when imposing such a condition works to prevent the incarceration of the defendant. Based upon the foregoing, the defendant was thus lawfully sentenced.

This Court has considered the defendant's other contentions, and finds them without merit.

Accordingly, the defendant's judgment of conviction is in all respects *affirmed*.

This constitutes the opinion, decision and Order of the Court.

Dated: Buffalo,
New York April 16, 1999

s/ Sheila A. DiTullio
SHEILA A. DiTULLIO, J.C.C.

APPENDIX B — TRANSCRIPT OF PROCEEDINGS OF THE CITY COURT OF BUFFALO DATED DECEMBER 8, 1997

CITY COURT OF BUFFALO
COUNTY OF ERIE
50 Delaware Avenue
Buffalo, New York 14202

Docket # H-00521-95

December 8, 1997

In the Matter of:

CITY OF BUFFALO

Petitioner

vs.

MARCUS LAWSON

Respondent

PROCEEDINGS — HOUSING

BEFORE THE HONORABLE
MICHAEL L. BRODERICK CITY COURT JUDGE

* * *

Appendix B

[2] PROCEEDINGS

COURT CLERK: 95-H-00521, Marcus Lawson, 55 to 61 Lyth.

MR. OSTROWSKI: Good morning, Your Honor.

THE COURT: Good morning. Is this — This is scheduled for possible demolition, as well, wasn't it?

MR. OSTROWSKI: Yes, Your Honor. There was some contact between Kathy Polk and my client. However, I spoke to my client today, and he informed me that he does not have any other place to live, and does not wish to consent to the demolition. I'm not sure how the Court can proceed.

May I just suggest that — I know that the Court believes that there are structural problems with the house, and I'm not going to argue with the Court, with the Court's belief on that. But what I'm suggesting is, perhaps the Court could sentence Mr. Lawson and leave the issue of demolition to the City, which has the authority, I believe, under the Code to proceed to demolish the house either in an emergency or with a hearing pending.

THE COURT: Well, I — Yeah, you know, that's in addition to my authority here. My authority is [3] immediate. The problem is that the — The problem that you face is that I have this. It's in front of me.

MR. OSTROWSKI: I understand, but —

Appendix B

THE COURT: And I have indeed accepted that the building is dangerous or represents a hazard to everybody, including you. And I will not allow you to live there. That's the bottom line. I understand, sir, that you don't want to agree to this, but that's an impediment that the Court can overcome. I can order, and I hereby order demolition of these properties. And I'm going to order immediate demolition.

Now you must, sir, find someplace else to live. I will not allow you to stay there. I can wake up tomorrow morning with you dead, sir, because of those, the conditions that exist on that property. Now, that's an extreme case, and I hope to God that doesn't happen. But it could, and I will not be responsible for that, sir. I will not be responsible for that, sir. So I'm ordering — I'm ordering demolition, immediately. And in this particular case, I mean that. Practically speaking, it'll be some time before the City takes care of that.

[4] MR. OSTROWSKI: Your Honor, there will be time to remove property and so on?

THE COURT: Absolutely. I do not want them to go out this afternoon. And I want Mr. Lawson notified through counsel's office if — and this is a part of the order, Mr. DiJames, of the date when this demolition will begin, so that he has an opportunity to leave. I don't want him to go home and find his house gone. But, sir, it could happen anytime, couldn't it, Mr. DiJames?

MR. DiJAMES: Yes, that's what I was just going to say. If this has already been bid, because you have ordered this —

THE COURT: I don't know if it's been bid. Do you?

MR. DiJAMES: I don't know at this time.

THE COURT: I've got — Well, I don't want it done until this man has a chance to remove his belongings. That would be wrong. And I'm not going to allow that to happen. So, maybe, Mr. Irwin, this would be — You're the one I should be talking to. If it has been bid, if it's in the hands of a contractor, I want you, when you leave today, to check on the file. Or do you have that information?

[5] MR. DiJAMES: He wouldn't know that, Your Honor.

THE COURT: Who would know that?

MR. DiJAMES: I would know that.

THE COURT: Where are you going — How are you going —

MR. DiJAMES: I'd have to call Mr. Sinkiewicz.

THE COURT: If you know it, are you going to keep it a secret from me?

MR. DiJAMES: I would have to call Mr. Sinkiewicz.

THE COURT: Well, I — All right. You do the — Maybe what —

MR. OSTROWSKI: I know him well, Mr. Sinkiewicz, and I'm sure —

THE COURT: No, I know it's not going to happen intentionally, but I don't want it to happen by accident. I think what I'll do is ask you to sit down. I'm going to ask you to give a —

MR. OSTROWSKI: In fact, Your Honor —

THE COURT: Yes, sir?

MR. OSTROWSKI: You briefly handled another case, a couple years ago, where it did happen by accident, which is seldom the case.

THE COURT: Well, that's right. I mean, it [6] has happened in the past, and I'm not —

(Proceedings temporarily interrupted.)

(Off the record discussion.)

COURT CLERK: Recalling 95-H-00521, Marcus Lawson, 55 to 61 Lyth.

THE COURT: Okay. Mr. Ostrowski, did you — I'm glad you did, and thank you. You called yourself, did you, sir?

MR. OSTROWSKI: Yes, my old college classmate, Bob Sinkiewicz, he said that 55 Lyth Street has not been bid out.

I informed him that the Court wanted me to be informed of the demolition date. He said he would do that.

THE COURT: All right. Between now and then — See, that could happen, sir, at any time. I don't expect it happening quickly, but you must prepare for that, sir.

MR. LAWSON: I understand, Your Honor. I understand, Your Honor.

THE COURT: And don't force the Court to order your removal. I don't want to do that. But I will, if I must. Mr. Ostrowski, please advise your client that that's the bottom line here.

MR. OSTROWSKI: Yes, Your Honor.

THE COURT: I'm sentencing him today, and [7] directing immediate demolition, I'll sentence him to a conditional discharge. The condition of the discharge being that he take every step necessary to ensure his leaving the premises before the demolition. Also, that he cooperate with the City in resolving the problems of reimbursement for the cost.

MR. OSTROWSKI: Thank you, Your Honor.

THE COURT: You're welcome.

(Proceedings concluded.)

APPENDIX C — ORDER DENYING LEAVE TO APPEAL TO THE STATE OF NEW YORK, COURT OF APPEALS DATED AUGUST 13, 1999

STATE OF NEW YORK
COURT OF APPEALS

BEFORE: HON. RICHARD C. WESLEY
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

MARCUS LAWSON,

Appellant.

CERTIFICATE DENYING LEAVE

I, RICHARD C. WESLEY, Associate Judge of the Court of Appeals of the State of New York, do hereby certify that upon application timely made by the above-named appellant for a certificate pursuant to CPL 460.20 and upon the record and proceedings herein,* there is no question of law presented which ought to be reviewed by the Court of Appeals and permission is hereby denied and stay dismissed as academic.

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* ***Description of Order***: Order of the County Court, County of Erie, dated April 16, 1999 affirming a judgment of the Housing Part, Buffalo City Court, dated December 8, 1997.

Appendix C

Dated at Genesco, New York

August 13, 1999

s/ Richard C. Wesley
Associate Judge